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09/448,804	11/24/1999	DAVID L. SALGADO	D/99253-690	5473

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EXAMINER
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PANNALA, SATHYANARAYA R

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/448,804	<b>Applicant(s)</b> SALGADO ET AL.	
	<b>Examiner</b> Sathyanarayan Pannala	<b>Art Unit</b> 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. Based on Applicant's Pre-appeal Conference Request filed on 2/10/2009, the panel decided to Reopen the prosecution. Therefore, the finality of the previous Office action has been withdrawn. In this Office Action, claims 1-21 are pending.

### ***Claim Objections***

2. Claim 1 has minor error in wording of "the system being manager being configured to" instead of "the system manager being configured to". Appropriate correction is required.

3. Claims 2, 4-11 and 13-14 are objected to because of the following informalities: Dependent claims and should start with the word "The" instead of an article "A". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 1-2 and 12-21 are rejected under 35 U.S.C. 101, because none of the claims are directed to statutory subject matter and details as follows:

Claims 1-2 and 12-21 are rejected under 35 U.S.C. § 101, because claims are directed to program per se. Independent claims 1 and 12 are claiming a computer program per se and functional descriptive material consisting of data structures and computer programs, which impart functionality when employed as a computer component. As such, the claim fails to show linkage between the hardware and the software steps so as to be structurally and functionally interrelated and permit the function of the software steps to be realized. Since software steps are merely set of instructions without proper linkage with the hardware to realize the software steps' functionality, it is regarded as nonstatutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8. Claim 2 is dependent on claim 1 and claims 13-21 are dependent on claim 12 and they are rejected under the same rationale as claim 1 and 12 respectively.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujiwara (US Patent ) hereinafter Fujiwara.

8. As per independent claim 1, Fujiwara teaches the claimed, a multiple platform architecture data reporting system for managing attribute data, the system, embodied on a computer readable medium (col. 1, lines 20-23, **computer software programs and architecture and relates to a system and method for creating substitute registry when automatically installing an update program**), comprising:  
a system manager, the system being manager being adapted (col. 1, lines 29-31, **computer software programs typically include a series of instructions that control the operation and functionality of computer systems**) to:  
collect attribute data including copyright data pertaining to software from multiple platforms (Fig. 4, col. 6, lines 15-16 and lines 22-24, **the browser program may possess selected attributes from client configuration files 340 may include information regarding the system directories or system registries for client software and other information currently residing on client 120**);  
recognize the copyright data in the attribute data (Fig. 4, 9, col. 6, lines 28-31 and col. 10, **client registries 355 may include selected information regarding software on client 120, such as the names, version levels, and storage locations of the resident software programs and miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password**); and

process the copyright data into a list of copyright data for the system (Fig. 9, col. 10, lines 3-6, **download module 430 preferably performs a comparison procedure between one or more download files 420 listed on network page 410 and the software programs currently installed on client 120**); and  
a user interface connected to the system manager for displaying the collected attribute data in the list to a user (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120**).

9. As per dependent claim 2, Fujiwara teaches the claimed, a multiple platform architecture data reporting system as in claim 1 wherein the system manager comprises memory for storing attribute data collected by the system manager (Fig. 2-3, lines 51-55, **non-volatile memory 240 preferably includes a client application 310, middleware 320, middleware 325, a browser program 330, client configuration files 340, and client registries 355**).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was

made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 3-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujiwara (US Patent 6,301,710) hereinafter Fujiwara, and in view of Teare et al. (US Patent 6,151,624).

12. As per independent claim 3, Fujiwara teaches the claimed, a method for managing attribute data in a multiple platform architecture (col. 1, lines 20-23, **computer software programs and architecture and relates to a system and method for creating substitute registry when automatically installing an update program**), the method comprising the steps of:

Fujiwara teaches the claimed, displaying the collected attribute data on a user display for managing attribute data in the multiple platform architecture (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120**).

Fujiwara does not teach polling at least platforms. However, Teare teaches the claimed, polling at least two platforms for attribute data (Fig. 3, col. 18, lines 18-22, **the**

**crawler 24 polls the customer web site that is represented by the row or record);** Teare teaches the claimed, collecting the attribute data from the at least two platforms in response to the step of polling (see Abstract, **a copy of the metadata is stored in a registry that is indexed at a central location. A crawler service periodically updates the registry by polling the information on each server associated with registered metadata. To locate a selected network resource, a client provides the name of the network resource to a resolver process**). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention, to have combined the teachings of the cited references because Teare's teachings would have allowed Fujiwara's mechanism to navigate to a network resource based upon its name and without misdirection caused by a meta-tag in the network resource (col. 4, lines 42-44).

As per dependent claim 4, Fujiwara and Teare combined teaches independent claim 3. Teare teaches the claimed, automatically polling the at least two platforms during power on of at least one of the at least two platforms (Fig. 7, col. 6, lines 1-3, **another feature involves periodically polling the name file on the server associated with the client**). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention, to have combined the teachings of the cited references because Teare's teachings would have allowed Fujiwara's mechanism to navigate to a network resource based upon its name and without misdirection caused by a meta-tag in the network resource (col. 4, lines 42-44).



13. As per dependent claim 5, Fujiwara teaches the claimed, step of polling at least two platforms for attribute data further comprises the step of polling at least one of the at least two platforms when polling is initiated by a user request (Page 1, paragraph [0011] and paragraph [0049], **the copyright of digital data provided by the data providing device is inspected and the information is taken from the device**).

14. As per dependent claim 6, Fujiwara teaches the claimed step of “the step of collecting the copyright information from the at least two platforms (Fig. 4, col. 6, lines 15-16 and lines 22-24, **the browser program may possess selected attributes from client configuration files 340 may include information regarding the system directories or system registries for client software and other information currently residing on client 120**).

15. As per dependent claim 7, Fujiwara teaches the claimed, the step of collecting the attribute data from the at least two platforms in response to the step of polling further comprises the step of collecting the license information from the at least two platforms (Fig. 9, col. 10, lines 20-23, **miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password**).

16. As per dependent claim 8, Fujiwara teaches the claimed, the step of storing the attribute data in non-volatile memory (Fig. 2-3, lines 51-55, **non-volatile memory 240**

**preferably includes a client application 310, middleware 320, middleware 325, a browser program 330, client configuration files 340, and client registries 355).**

17. As per dependent claim 9, Fujiwara teaches the claimed, the step of displaying the collected attribute data on a user display further comprises the step of automatically displaying the attribute data collected from the at least two platforms (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120).**

18. As per dependent claim 10, Fujiwara teaches the claimed, the step of displaying the collected attribute data on a user display further comprises the step of manually displaying the attribute data collected from the at least two platforms (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120).**

19. As per dependent claim 11, Fujiwara teaches the claimed, the step of displaying the collected attribute data on a user display further comprises the step of displaying only non-copyright attribute data collected from the at least two platforms (Fig. 9, col. 10, lines 20-23, **miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password).**

20. As per independent claim 12, Fujiwara teaches the claimed, A software copyright information managing system embodied on a computer readable medium for managing software copyright data in a multiple platform electronic architecture (col. 1, lines 20-23, **computer software programs and architecture and relates to a system and method for creating substitute registry when automatically installing an update program**), the system comprising:

Fujiwara teaches the claimed, “collecting the software copyright data” as the attributes of the digital data are recorded at least a file size for URLs (Fig. 4, col. 6, lines 15-16 and lines 22-24, **the browser program may possess selected attributes from client configuration files 340 may include information regarding the system directories or system registries for client software and other information currently residing on client 120. Fig. 1, col. 7, lines 60-64, system user of client 120 (FIG. 1) accesses network page 410 by entering a corresponding network address or uniform resource locator (URL), and browser program 330 responsively connects client 120 to network page 410**).

Fujiwara teaches the claimed, a user interface connected to the system controller for displaying the software copyright data from the memory to a user (Fig. 3, col. 6, lines 51-53, **viewed and accessed by a system user by displaying client registries 355 on a graphical user interface (GUI) of client 120**).

Fujiwara does not explicitly teach a system controller for collecting data. However, Teare teaches the claimed, a system controller for collecting the data from multiple platforms (Fig. 1, col. 12, lines 41-43 and col. 18, lines 18-24, **the system**

then displays a Web page containing a form that enables the system to receive further information about the user, the Crawler 24 polls the customer Web site that is represented by the row or record, searching for updates to the Name File 64 that is stored in association with that Web site. The polling step includes the steps of opening an HTTP connection to the Web site, requesting and receiving a copy of the Name File). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention, to have combined the teachings of the cited references because Teare's teachings would have allowed Fujiwara's mechanism to navigate to a network resource based upon its name and without misdirection caused by a meta-tag in the network resource (col. 4, lines 42-44).

21. As per dependent claim 13, Fujiwara teaches the claimed, the system controller for collecting the software copyright data from multiple platforms further comprises a memory for storing the software copyright data collected by the system controller (Fig. 1, col. 4, lines 28-30, **client 120 preferably communicates bi-directionally with database server 150 to access and store various types of information**).

22. As per dependent claim 14, Fujiwara teaches the claimed, the memory for storing the software copyright data collected by the system controller further comprises non-volatile memory (Fig. 2-3, lines 51-55, **non-volatile memory 240 preferably includes a client application 310, middleware 320, middleware 325, a browser program 330, client configuration files 340, and client registries 355**).

23. As per dependent claim 15, Fujiwara teaches the claimed, the system manager collects attribute data from multiple platforms simultaneously (Fig. 1, col. 4, lines 15-17, **client-server system 160 may typically include a substantially larger number of additional client systems**).

24. As per dependent claim 16, Fujiwara teaches the claimed, the attribute data collected is attribute data stored on the multiple platforms and is passed to the user interface” (Fig. 1, col. 4, lines 15-19, **client-server system 160 may typically include a substantially larger number of additional client systems. Each of the additional client systems is preferably likewise configured to communicate with database server 150 and network 100**).

25. As per dependent claim 17, Fujiwara teaches the claimed “the list is a list of copyright years for the system in its entirety” as the attributes of the digital data the last update date (Fig. 6, col. 8, lines 3-5, **download module 430 then preferably compares the update module(s) listed on network page 410 and the software residing on client 120**).

26. As per dependent claim 18, Fujiwara teaches the claimed, the attribute data comprises copyright and license data related to software (Fig. 9, col. 10, lines 20-23,

**miscellaneous information 918 may include, but is not limited to, a copyright notice, a license agreement, a description of the corresponding software, a user identification number, and a password).**

27. As per dependent claim 19, Fujiwara teaches the claimed “the attribute data is a list of copyright years related to each software object of the system (Fig. 6, col. 7, line 64 to col. 8, line 2, **Network page 410 preferably contains information relating to one or more update programs that may be appropriate for client 120. For example, network page 410 may contain the name and version number of one or more update programs that client 120 may wish to download and install).**

28. As per dependent claim 20, Fujiwara teaches the claimed, the multiple platforms comprise document processing apparatus (Fig. 3, col. 5, lines 57-61, **client application 310 preferably includes software instructions that are executed by CPU 210 to perform a particular computing function for a system user. For example, client application 310 may perform computing tasks such as word processing, accounting, or business management projects).**

29. As per dependent claim 21, Fujiwara teaches the claimed “the attribute data comprising copyright data for each software object on each platform (Fig. 3, col. 6, lines 19-21, **client configuration files 340 may include information regarding the system**

**directories or system registries for client software and other information currently residing on client 120).**

***Response to Arguments***

30. Applicant's arguments filed 2/10/2009 have been fully considered but they are not persuasive, and details as follow:

a) Applicant's stated as "The claims are amended to address the claim objections. Specifically, the dependent claims are amended to start with the word 'The' instead of the article 'A'."

In response, Applicant statement is not correct, because Applicant did not amend any dependent claims and therefore, the claims objection is maintained.

b) Applicant's argument stated as "Claim 1 is amended to address the rejection under 35 U.S.C. §112, 2<sup>nd</sup> paragraph."

In response to Applicant argument, examiner respectfully disagrees. Because Applicant replaced the word "adapted" with "configured" and the amendment did not over come the rejection. The claim is indefinite and therefore the rejection is maintained.

c) Applicant's argument stated regarding claim 1 under 35 U.S.C. 101 as "recites that the 'system' is embodied on a 'computer readable medium' it is submitted that at for this reason, the claim is directed to statutory subject matter."

In response to Applicant argument, Examiner respectfully disagrees.

Because, a 'system' in the claim preamble is 'data reporting system' and it is a software system with programming code. Software is not a statutory subject matter. Additionally, "Computer readable medium" is not defined in the specification. The Memory 25 specified in specification as volatile or non-volatile (see specification, page 5, lines 3-4). When a computer is connected to volatile memory the data will not be stored permanently for a while and every time the data collected may be changed and data reporting system will be considered as not reliable and dependable. Therefore, the claim 1 is a non-statutory and the rejection is maintained.

d) Applicant's argument stated as "Fujiwara does not disclose or suggest a system manager that 'collects' copyright data pertaining to software from 'multiple platforms'."

In response to Applicant argument, Examiner respectfully disagrees.

Because, the reference by Fujiwara do teach dealing with multiple platforms and collecting the information from clients (see at Fig. 1, col. 5, lines 1-7).

e) The new reference of Teare replaced the old reference of Schwartz. The new reference fully teaches the claimed limitations of polling and collecting the attribute data (Fig. 3, col. 18, lines 18-22 and Abstract).



***Contact Information***

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Sathyanarayan Pannala/  
Primary Examiner, Art Unit 2164

srp  
March 14, 2008